

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1007

Introduced by Assembly Member Carter

February 27, 2009

An act to amend Section 35012 of the Education Code, relating to ~~governing boards, and declaring the urgency thereof, to take effect immediately.~~ *governing boards.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1007, as amended, Carter. Governing boards: pupil members.

(1) Existing law requires the governing board of a school district maintaining one or more high schools to appoint to its membership one or more nonvoting pupil members if pupils petition the governing board to make those appointments.

~~This bill, commencing July 1, 2009, would delete the requirement that a petition be submitted, and instead require the governing board of a school district to appoint one or more nonvoting pupil members to the board. This bill would require the governing board to appoint the pupil member or members within 30 days of receiving the petition, or at its next regularly scheduled meeting if no meeting is held within those 30 days, as specified.~~ Because the bill would require school districts to provide a higher level of service, it would impose a state-mandated local program. *The bill would authorize the governing board to adopt a resolution authorizing a pupil advisory board to assist the pupil member or members in executing duties relating to serving on the board.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 35012 of the Education Code is amended
2 to read:

3 35012. (a) Except as otherwise provided, the governing board
4 of a school district shall consist of five members elected at large
5 by the qualified voters of the district. The terms of the members
6 shall, except as otherwise provided, be for four years and staggered
7 so that as nearly as practicable one-half of the members shall be
8 elected in each odd-numbered year.

9 (b) A unified school district may have a governing board of
10 seven members in the event the proposal for unification has
11 specified a governing board of seven members. The members of
12 the board shall be elected at large or by trustee areas as designated
13 in the proposal for unification and shall serve four-year terms of
14 office.

15 (c) Notwithstanding subdivision (a), and except as provided in
16 this subdivision and Section 5018, the governing board of an
17 elementary school district other than a union or joint union
18 elementary school district shall consist of three members selected
19 at large from the territory comprising the district. Whenever, in
20 any such elementary school district the average daily attendance
21 during the preceding fiscal year is 300 or more, the procedures
22 prescribed by Section 5018 shall be undertaken.

23 (d) There may be submitted to the governing board of a school
24 district maintaining one or more high schools a pupil petition
25 requesting the governing board to appoint one or more nonvoting
26 pupil members to the board pursuant to this section.

27 There may also be submitted to the governing board of a school
28 district maintaining one or more high schools a pupil petition
29 requesting the governing board to allow preferential voting for the

1 pupil member or members of the board. This request may be made
2 in the original petition for pupil representation on the board or in
3 a separate petition after a pupil member or members have been
4 appointed to the board.

5 Whether for pupil representation or for preferential voting for
6 the pupil member or members, the petition shall contain the
7 signatures of either (a) not less than 500 pupils regularly enrolled
8 in high schools of the district, or (b) not less than 10 percent of
9 the number of pupils regularly enrolled in high schools of the
10 district, whichever is less. ~~Upon receipt of a petition for pupil~~
11 ~~representation, the governing board shall, commencing July 1,~~
12 ~~1976, and each year thereafter, Each fiscal year, and within 30~~
13 ~~days of receipt of a petition for pupil representation, or at its next~~
14 ~~regularly scheduled meeting if no meeting is held within those 30~~
15 ~~days, the governing board, shall order the inclusion within the~~
16 membership of the governing board, in addition to the number of
17 members otherwise prescribed, at least one nonvoting pupil
18 member. The board may order the inclusion of more than one
19 nonvoting pupil member.

20 Upon receipt of a petition for preferential voting for the pupil
21 member or members, the governing board shall allow preferential
22 voting for the pupil member or members of the governing board.

23 Preferential voting, as used in the section, means a formal
24 expression of opinion that is recorded in the minutes and cast prior
25 to the official vote of the governing board. A preferential vote will
26 not serve in determining the final numerical outcome of a vote.
27 No preferential vote will be solicited on matters subject to closed
28 session discussion.

29 The governing board may adopt a resolution authorizing the
30 nonvoting or preferential voting pupil member or members to make
31 motions that may be acted upon by the governing board, except
32 on matters dealing with employer-employee relations pursuant to
33 Chapter 10.7 (commencing with Section 3540) of Division 4 of
34 Title 1 of the Government Code.

35 Each pupil member shall have the right to attend each and all
36 meetings of the governing board, except executive sessions. *The*
37 *governing board may adopt a resolution authorizing a pupil*
38 *advisory board to assist the pupil member in executing the duties*
39 *prescribed by this section and those prescribed by the governing*

1 *board. The structure and composition of such a board shall be*
2 *determined by the governing board.*

3 Any pupil selected to serve as a nonvoting or preferential voting
4 member of the governing board shall be enrolled in a high school
5 of the district, may be less than 18 years of age, and shall be chosen
6 by the pupils enrolled in the high school or high schools of the
7 district in accordance with procedures prescribed by the governing
8 board. The term of a pupil member shall be one year commencing
9 on July 1 of each year.

10 A nonvoting or preferential voting pupil member shall be entitled
11 to the mileage allowance to the same extent as regular members,
12 but is not entitled to the compensation prescribed by Section 35120.

13 A nonvoting or preferential voting pupil member shall be seated
14 with the members of the governing board and shall be recognized
15 as a full member of the board at the meetings, including receiving
16 all materials presented to the board members and participating in
17 the questioning of witnesses and the discussion of issues.

18 The nonvoting or preferential voting pupil member shall not be
19 included in determining the vote required to carry any measure
20 before the board.

21 The nonvoting or preferential voting pupil member shall not be
22 liable for any acts of the governing board.

23 *SEC. 2. If the Commission on State Mandates determines that*
24 *this act contains costs mandated by the state, reimbursement to*
25 *local agencies and school districts for those costs shall be made*
26 *pursuant to Part 7 (commencing with Section 17500) of Division*
27 *4 of Title 2 of the Government Code.*

28 ~~SECTION 1. Section 35012 of the Education Code is amended~~
29 ~~to read:~~

30 ~~35012. (a) Except as otherwise provided, the governing board~~
31 ~~of a school district shall consist of five members elected at large~~
32 ~~by the qualified voters of the district. The terms of the members~~
33 ~~shall, except as otherwise provided, be for four years and staggered~~
34 ~~so that as nearly as practicable one-half of the members shall be~~
35 ~~elected in each odd-numbered year.~~

36 ~~(b) A unified school district may have a governing board of~~
37 ~~seven members in the event the proposal for unification has~~
38 ~~specified a governing board of seven members. The members of~~
39 ~~the board shall be elected at large or by trustee areas as designated~~

1 in the proposal for unification and shall serve four-year terms of
2 office.

3 ~~(e) Notwithstanding subdivision (a), and except as provided in~~
4 ~~this subdivision and Section 5018, the governing board of an~~
5 ~~elementary school district other than a union or joint union~~
6 ~~elementary school district shall consist of three members selected~~
7 ~~at large from the territory comprising the district. Whenever, in~~
8 ~~any such elementary school district the average daily attendance~~
9 ~~during the preceding fiscal year is 300 or more, the procedures~~
10 ~~prescribed by Section 5018 shall be undertaken.~~

11 ~~(d) (1) Commencing July 1, 2009, the governing board of a~~
12 ~~school district maintaining one or more high schools shall appoint~~
13 ~~one or more nonvoting pupil members to the board.~~

14 ~~(2) There may be submitted to the governing board of a school~~
15 ~~district maintaining one or more high schools a pupil petition~~
16 ~~requesting the governing board to allow preferential voting for the~~
17 ~~pupil member or members of the board. This petition shall contain~~
18 ~~the signatures of either (a) not less than 500 pupils regularly~~
19 ~~enrolled in high schools of the district, or (b) not less than 10~~
20 ~~percent of the number of pupils regularly enrolled in high schools~~
21 ~~of the district, whichever is less.~~

22 ~~(3) Upon receipt of this petition, the governing board shall allow~~
23 ~~preferential voting for the pupil member or members of the~~
24 ~~governing board.~~

25 ~~(4) "Preferential voting," as used in the section, means a formal~~
26 ~~expression of opinion that is recorded in the minutes and cast prior~~
27 ~~to the official vote of the governing board. A preferential vote will~~
28 ~~not serve in determining the final numerical outcome of a vote.~~
29 ~~No preferential vote will be solicited on matters subject to closed~~
30 ~~session discussion.~~

31 ~~(5) The governing board may adopt a resolution authorizing the~~
32 ~~nonvoting or preferential voting pupil member or members to make~~
33 ~~motions that may be acted upon by the governing board, except~~
34 ~~on matters dealing with employer-employee relations pursuant to~~
35 ~~Chapter 10.7 (commencing with Section 3540) of Division 4 of~~
36 ~~Title 1 of the Government Code.~~

37 ~~(6) Each pupil member shall have the right to attend each and~~
38 ~~all meetings of the governing board, except executive sessions.~~

39 ~~(7) Any pupil appointed to serve as a nonvoting or preferential~~
40 ~~voting member of the governing board shall be enrolled in a high~~

1 school of the district, may be less than 18 years of age, and shall
2 be chosen by the pupils enrolled in the high school or high schools
3 of the district in accordance with procedures prescribed by the
4 governing board. The term of a pupil member shall be one year
5 commencing on July 1 of each year.

6 ~~(8) A nonvoting or preferential voting pupil member shall be~~
7 ~~entitled to the mileage allowance to the same extent as regular~~
8 ~~members, but is not entitled to the compensation prescribed by~~
9 ~~Section 35120.~~

10 ~~(9) A nonvoting or preferential voting pupil member shall be~~
11 ~~seated with the members of the governing board and shall be~~
12 ~~recognized as a full member of the board at the meetings, including~~
13 ~~receiving all materials presented to the board members and~~
14 ~~participating in the questioning of witnesses and the discussion of~~
15 ~~issues.~~

16 ~~(10) The nonvoting or preferential voting pupil member shall~~
17 ~~not be included in determining the vote required to carry any~~
18 ~~measure before the board.~~

19 ~~(11) The nonvoting or preferential voting pupil member shall~~
20 ~~not be liable for any acts of the governing board.~~

21 ~~SEC. 2. If the Commission on State Mandates determines that~~
22 ~~this act contains costs mandated by the state, reimbursement to~~
23 ~~local agencies and school districts for those costs shall be made~~
24 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
25 ~~4 of Title 2 of the Government Code.~~

26 ~~SEC. 3. This act is an urgency statute necessary for the~~
27 ~~immediate preservation of the public peace, health, or safety within~~
28 ~~the meaning of Article IV of the Constitution and shall go into~~
29 ~~immediate effect. The facts constituting the necessity are:~~

30 ~~In order for this bill to be implemented during the 2009-10~~
31 ~~school year, it is necessary that this act take effect immediately.~~